

Appeal Decision

Site visit made on 8 May 2017

by Louise Nurser BA (Hons) Dip UP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 May 2017

Appeal Ref: APP/N4720/D/17/3169282

Woodlands Grange, Woodlands Drive, Rawdon, Leeds BD10 0NX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr T Mahapatra against the decision of Leeds City Council.
 - The application Ref 16/06133/FU, dated 30 September 2016, was refused by notice dated 22 November 2016.
 - The development proposed is proposed garage, swimming pool and link to dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for proposed garage, swimming pool and link to dwelling at Woodlands Grange, Woodlands Drive, Rawdon, Leeds BD10 0NX in accordance with the terms of the application, Ref 16/06133/FU, dated 30 September 2016, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan/Red Line/OS Plan 145/01(02)001; Block Plan/Layout Plan 145/01(02)0013; Proposed floor plan(s) 145/01(02)007; Proposed floor plan(s) 145/01(02)008; Roof Plan 145/01(02)009; Proposed elevation(s) 145/01(02)010; Proposed elevation(s) 145/01(02)011; Proposed elevation(s) 145/01(02)012.
 - 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Procedural matters

2. Following the submission of the appeal a planning obligation was provided by the appellant. The Council has had the opportunity to comment on this. Therefore, no one has been prejudiced by my acceptance of the legal document which commits the appellant not to take advantage of any further permitted development rights and not to construct a 432 sq m freestanding building to the rear of the property under a Certificate of Lawful Development 145/01 (02) 012.
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3. Reference has been made to the Apperley Bridge Conservation Area. For the avoidance of doubt the appeal site falls within the Rawdon Cragg Wood Conservation Area.

Main Issues

4. The large imposing host property lies within generous grounds within the Green Belt. The appellant wishes to extend his property to provide extensive garaging, a gym, sauna and swimming pool, a balcony to the side and a canopy to the west and to make other cosmetic alterations to the appearance of the house. The Council has raised no objection to the design of the proposed development and I concur with this conclusion. I consider the main issues in this case are: a) whether the proposal constitutes inappropriate development in the Green Belt; b) its effect on the openness of the Green Belt, and the purpose of including land in the Green Belt; and c) if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development

5. The Government attaches great importance to the Green Belt. The Framework establishes within paragraph 89 that the construction of a new building as inappropriate unless, amongst other things, it involves the extension of a building. However, any such extension should not result in disproportionate additions over and above the size of the original building. This is reflected in saved Policy N33 of the Leeds Unitary Development Plan (Review) adopted 2006 (UDP) which remains broadly consistent with the Framework. Policy HDG3 of the Council's Householder Design Guide, Supplementary Planning Document, adopted April 2012 (SPD), provides further guidance that extensions within the Green Belt which result in a greater than a 30% increase over and above the house as originally built or as existing in 1947, or which harm the character, appearance or openness of the Green Belt are considered to be inappropriate development.
6. In common with many older properties, which have been altered and extended, there is uncertainty as to the exact volume of either the original property or as it stood in 1947. The recent planning history of the site includes modern extensions to the east wing. However, whilst the west wing appears to have been extended, there are no planning records to provide exact measurements.
7. Nonetheless, there is evidence of an east and west wing from the 1893 map, and I observed on site, and have been provided with photographs of, an outline of a possible two storey element to the east of the house, which has since been demolished.
8. Irrespective of which, even were I to accept the appellant's lowest figures which are calculated on the premise that both the existing east and west wings should not be considered as additions; utilised internal measurements; off set from the figures the volume of existing outbuildings which are proposed to be demolished; and only included in the calculation the element of the proposed development which is visible above the existing land form, this would result in a minimum 27% increase in volume over and above the existing house.

However, the appellant states that approximately 50% of the proposed development would be subterranean. Consequently, it would be reasonable to double this figure to provide a conservative figure for the volume of the proposed extension.

9. Were the whole of the eastern wing to have been calculated as being post 1947 and no allowance made for any historic extension to the east wing, the visible element of the extension would be, according to the appellant's figures. a 47% increase in volume.
10. The Council's figures, which assume that the west wing is part of the original property, suggest that the extension would result in a minimum of a 65% increase in volume.
11. My conclusion that the figures provided by both main parties, whilst not definitive, clearly demonstrate that this is a substantial extension which substantively breaches the 30% figure set within Policy HDG3 of the SPD. This Guidance is broadly consistent with the Framework, as far as it sets out what it considers to be a disproportionate extension. A simple reading of Paragraph 89 of The Framework does not imply that a building could be extended to an extent which is equivalent to its total size and be considered not to be disproportionate.
12. The proposed increase in volume of the appeal proposal would be a disproportionate addition over and above the size of the original building. This would be contrary to Saved Policy N33 of the UDP, Policy HDG3 of the SPD and in conflict with the policies of the Framework. Therefore, I conclude that it would be inappropriate development, which is by definition, harmful to the Green Belt, and to which I attach substantial weight.

Openness and the purposes of including land within the Green Belt

13. The Framework (paragraph 79) makes clear that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belt are their openness and their permanence. The proposed development would not be visible from outside the grounds of the host property. Nevertheless, the fundamental characteristic of openness is the absence of buildings. Consequently, the construction of the proposed extension would unavoidably impact on the openness of the Green Belt. In coming to this conclusion I am aware that some of the development would be constructed to take advantage of the topography of the site as a means of reducing its impact, that some existing outbuildings would be removed and that substantial planting would take place.
14. This would be therefore be contrary to Policy HDG3 of the SPD and saved Policy N33 of the UDP. Therefore, I conclude the consequential loss of openness that conflicts with the purposes of including land within the Green Belt, would result in significant harm to the Green Belt, in addition to that which would arise from the inappropriate nature of the development.
15. I therefore attach substantial weight to the total harm to the Green Belt I have identified.

Other considerations

16. Paragraph 14 of the Framework constrains the presumption in favour of sustainable development where specific policies in the Framework such as those relating to Green Belt indicated development should be restricted.
17. The appeal proposal lies within the Rawdon Cragg Wood Conservation Area (CA). I agree with the Council's conclusion that the proposed extension would be in keeping with the surroundings and as such would preserve the character and appearance of the CA.
18. In August 2016 a Certificate of Proposed Lawful Development (CPLD) was granted for a new driveway and a detached flat roofed outbuilding to accommodate a garage, swimming pool and associated plant room. From the information which was provided to me it appears this development would be sited on land which slopes up behind the host property. Its design would be box like and due to its location it would substantially adversely impact on the attractive grass sward and sylvan setting of the host property, and its roof would be at the same level as the eaves of the main house. Moreover, the existing outbuildings associated with the property would be retained, albeit I consider that due to their size that they have a limited adverse impact on the openness of the Green Belt.
19. Significantly, the volume of visible development would measure around 1376 cubic metres compared to the volume of the appeal proposal of approximately 709 cubic metres. It is argued that the impacts of the development which could be constructed by virtue of the CPLD would be substantively worse than that which has been refused and which is the subject of the appeal before me. In considering the weight to attribute to the fall-back argument I must consider if there is a reasonable possibility that if planning permission were to be refused, a development which could be implemented would take place, and whether such development would be less desirable than that for which planning permission is sought.
20. Given the specific history of the site which includes a previous application for a CPLD to house a pool and detached garage which had been refused, as well as the approved CPLD I consider that the implementation of the proposed development is a realistic option, and one which the appellant would pursue were the appeal proposal not to be allowed. Consequently, I do not consider that it would be a hypothetical position that would be replicated elsewhere, and would not therefore set a precedent. Moreover, each appeal is to be determined on its own individual merits.
21. From the evidence before me I conclude that due to the specific characteristics of the site, including its topography, the impact on the openness and purposes of including land within the Green Belt, as well as the effect on the character or appearance of the CA, would be substantially worse than that which would result from the appeal proposal which has been designed to provide a contemporary development which respects the character, design and proportions of the original property. Overall, if the fall-back development were to be constructed I conclude the totality of the harm to the Green Belt would be greater than that which results from the appeal extension.
22. I have been provided with a duly executed planning obligation which would, subject to my allowing the appeal, prevent the appellant from exercising any

additional permitted development rights and the ability to construct the development granted as a result of the CPLD. I accord this benefit moderate weight.

23. I have been referred to a number of appeal decisions which relate to development nearby. However, I have not been supplied with details of the peculiar circumstances of the developments and have therefore been unable to conclude whether the schemes are directly comparable. Therefore, I have attached little weight to them in my consideration of the appeal.

Conditions

24. For the avoidance of doubt and in the interests of proper planning I attach a condition clarifying the plans approved. A condition requiring that the development is carried out using approved materials is necessary to ensure a satisfactory appearance.

Conclusion

25. The Green Belt balance requires an assessment of whether the harm by reason of inappropriateness and any other harm would be clearly outweighed by other considerations to amount to the very special circumstances required to justify the proposal.
26. In conclusion, I find the totality of harm I have identified resulting from the appeal extension is clearly outweighed by the realistic likelihood of the fall-back development being constructed which would result in greater harm. This amounts to the very special circumstances necessary to justify the development.
27. For the reasons given above the appeal is allowed.

L. Nurser

INSPECTOR